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Report of the Working Group on the Universal Periodic Review*

Azerbaijan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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The position of the Government of the Republic of Azerbaijan on the 101 recommendations given within the framework of the 30th session of the Working Group on Universal Periodic Review mechanism of the Human Rights Council of the United Nations

1. Azerbaijan carefully reviewed the 259 recommendations made during the third cycle of the universal periodic review in May 2018. Azerbaijan supported most of the recommendations while taking note of the rest.

2. Support for a recommendation means that it has been implemented, that it is currently being implemented or that it can be implemented. Many of the recommendations have in fact been implemented and Azerbaijan will strive to implement the others.

3. Taking note of a recommendation means that it requires further study.

The position of Azerbaijan on the outstanding recommendations

Take note of 141.1

4. The ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights requires interstate approval.

Take note of 141.2 and 141.3

5. Currently legal and institutional reforms are being carried out aimed at improving protection of the rights of a child in Azerbaijan. Drafts of Code on a child and the National Strategy on a Child are being finalised. After the adoption and implementation of these documents, it might be possible for our country to become a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

Take note of 141.4 and 141.5

6. Accession of Azerbaijan to the International Convention for the Protection of All Persons from Enforced Disappearance requires further internal coordination.

Take note of 141.6, 141.7 and 141.8

7. The information regarding the issue of the ratification of the Rome Statute of the International Criminal Court has been provided in the Paragraph 11 and 12 of the third periodic report of the Government of the Republic of Azerbaijan on Universal Periodic Review.

Take note of 141.9, 141.10 and 141.11

8. Azerbaijan has participated in the drafting process of the Council of Europe Convention on preventing and combating violence against women and domestic violence. The relevant national legislation of Azerbaijan is being examined in order to implement the articles of the Convention and establish new mechanisms as stipulated in the Convention. After conclusion of that process Azerbaijan will formulate its legal stance.

Support of 141.12

9. Azerbaijan has granted a standing invitation to all Special Procedure Mandate Holders of the Human Rights Council of the United Nations.

Support of 141.13

10. The Law of Azerbaijan on "Advocates and legal profession" corresponds to the requirements of the both two international instruments that are indicated in

recommendation. As such, advocates are involved in disciplinary responsibility in cases of finding of violations of requirements of legislative acts, the Statute on the rules regarding advocates' behaviour, including the cases with regard to violation of norms of advocate ethics based on requirements of the both of two international instruments and in accordance with national legislation.

Support of 141.71, 141.77

Take note of 141.39; 141.76

11. Currently, there are more than 1200 advocates in the country. A number of complaints directed to the Bar Association have been 152 in last 6 months. Disciplinary measures have been chosen for 10 of advocates and regarding only 1 person, application has been sent to the court for expulsion from advocacy profession. Among them, 18 of complaints are received from the state institutions, 5 of them are received from non-governmental organizations and 129 of them are received from citizens.

12. This kind of decisions of the Bar Association of Azerbaijan can be noted to be as one of the lowest rates when comparing to the statistics of organization of advocates in the whole world. When it comes to the selected disciplinary measures, most of them have been applied on the basis of complaints by citizens, not on the basis of the complaints sent by office of prosecutor, a court and state bodies. For this reason, none of the chosen decisions can be characterized as politically motivated; also advocates to whom disciplinary measure have been chosen have no political tie, and do not protect the rights of politicians. Implicitly, all disciplinary measures have been chosen in relation to the violation of the legislation and ethics of advocacy.

13. "New statute on rules regarding behaviour of advocates" has been accepted based on the "Code regarding behaviour of the European advocates" adopted by the European Bar Association and Legal Communities (CCBE).

Support of 141.68

14. Rules on admission to advocacy and on holding of exams, program of preparation to examination, sample questions for test examination stage have been displayed in the official website of the Bar Association. The Bar Association is also interested to applying more advanced standards in admission process in future and will take necessary measures to this end.

15. After compulsory trainings held on May 2, 23 and on 6 June of current year oath ceremony has been held for successful candidates. They have been admitted to the membership of the Bar Association according to the decision of the governing body, as a result, the number of the members of the Bar Association have exceeded 1200 in the first time of the history of Advocacy of Azerbaijan. Furthermore, oath ceremony for admission of 300 new advocates to the membership of the Association has been held during July of the current year. Consequently, the number of the advocates has increased from 944 to 1535 persons, and has been more than 62.6% comparing to previous years in Azerbaijan.

Support of 141.21

16. According to the Article 25 of the Constitution of Azerbaijan, everyone is equal before the law and court. The State guarantees the equality of rights and freedoms to everyone, irrespective of race, ethnicity, religion, language, sex, origin, property status, occupation, belief or affiliation with political parties, trade union organizations or other public associations. Restrictions of rights and freedoms on the grounds of race, ethnicity, religion, language, sex, origin, belief, or political or social affiliation are prohibited.

17. The principle of prohibition of restriction of human and citizen rights and freedoms based on racial, ethnic origin, religion, sex and other bases has been determined in the Criminal, Criminal-Procedural, Civil Procedural, Labour codes and in other legislative acts.

Support of 141.25

Take note of 141.16; 141.17, 141.18, 141.19, 141.20, 141.22, 141.23, 141.29, 141.30

Support of 141.26, 141.27

18. After adoption of the Law on the protection of children from all forms of corporal punishment, control mechanisms in relation to its fulfilment will demand to implement the strict reforms in the field of a child protection in local level. For this reason, adoption of such law will be considered in the future.

Support of 141.28

Take note of 141.78, 141.80, 141.81, 141.83, 141.85, 141.86

19. Azerbaijan closely cooperates with the relevant international organizations as well as the European Committee for the Prevention of Torture (CPT), the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations (SPT) and the Working Group on Arbitrary Detention. The reports by the CPT (together with comments of the Government of the Republic of Azerbaijan) on the conclusion of its visit to our country in different years have been published recently by the CPT with the initiative of the state. This decision of the Azerbaijani side regarding providing full transparency has been regarded by the CPT as a devoted expression of the Government.

20. International instruments in the field of protection of human rights, as well as the United Nations and Council of Europe Conventions, the case-law of the European Court of Human Rights, and topics regarding developments in the national legislation have been included in the programs of training courses for the employees of the Ministry of Justice, as well as, judges, candidates for a judge, advocates and other lawyers in the Academy of the Ministry of Justice.

Support of 141.40, 141.51

Take note of 141.14, 141.15, 141.24, 141.33, 141.36, 141.41, 141.43, 141.46, 141.55, 141.58, 141.59, 141.64, 141.65, 141.67, 141.79, 141.82, 141.84, 141.101

Not to support of 141.31, 141.32, 141.34, 141.38, 141.47, 141.48, 141.57, 141.60

21. In the view of the Republic of Azerbaijan, the recommendations listed above are not relevant since they are not factually correct, are unilateral interpretation of respective matters and do not comply with the bases of the review stipulated in the Human Rights Council resolutions 5/1 and 16/21, and therefore are not supported by the Republic of Azerbaijan.

22. It should be underlined that, only suspected persons for committing the concrete crime are held accountable for criminal liability in accordance with the rule determined in the law and the principle of equal rights of everyone before the law is guided in the Republic of Azerbaijan.

23. The opportunities have been created for human rights defenders, representatives of civil society and representatives of NGOs to operate freely and without legal and administrative burden, stable and effective system of partnership relations has been formed between state institutions and public organizations in Azerbaijan. An example can be illustrated as the Public Committee that has acted under the auspices of the minister of justice of Azerbaijan since 2006 and its structure consists of human rights defenders and representatives of the society.

24. Approximately, 3300 non-governmental organizations have been registered in the state registration.

Support of 141.50

Take note of 141.52, 141.53, 141.61 and 141.70

25. Proposals have been prepared on the legislation, for the opportunities getting on state registration and receiving finance by NGOs in accordance with the implemented "Dialogue of Azerbaijan Civil Society" project within the framework of the Council of Europe-Azerbaijan Action Plan. Some of the recommendations given during the 30th session of the Working Group on Universal Periodic Review mechanism are covered in these proposals. Currently, these proposals are being reviewed and their discussion with experts is to be considered.

26. Meanwhile, NGOs defending human rights, including defenders of fundamental rights and freedoms, also NGOs functioning in the field of gender equality, against domestic violence, human trafficking and drugs have opportunities of access to grants from the state and private organizations. Specialized NGOs can receive financial aids with the option of transparent competitions and tenders. The entire amount of donated grants by local donors has exceeded 100 million AZN in 2017.

Take note of 141.35, 141.37, 141.44, 141.45, 141.49, 141.54, 141.56, 141.62, 141.63, 141.66, 141.69, 141.72, 141.73, 141.74 and 141.75

27. Freedom of thought and speech, freedom of assembly, and right to association have been guaranteed in the Articles 47, 49, 58 of the Constitution, as well as, in other legislative acts. According to the "National Action Program on increasing efficiency in the field of protection of human rights and freedoms in the Republic of Azerbaijan" approved by the Order of 27 December 2011 of the President, during the preparation of draft laws, human rights and freedoms stipulated in the Constitution and in other international instruments to which our country is party are guided as a core criterion.

28. According to the Article 50 of the Constitution, freedom of mass information is guaranteed. State censorship in mass media, including the press is prohibited. Freedom of mass media is guaranteed by state in terms of the right that everyone can legally seek, receive, produce, impart and disseminate any information. Establishment, ownership, utilization, administration, seeking, receiving, preparing, conveying, producing and disseminating mass media cannot be constrained with the exception of cases that are determined in the legislation of the Republic of Azerbaijan.

Support of 141.42 and 141.87

Support of 141.88

29. The draft proposals to improve the Law of the Republic of Azerbaijan on "Guarantees of gender equality" have been agreed with relevant state authorities and sent to the Cabinet of Ministers. The draft contains provisions with regard to improve control mechanisms for ensuring gender equality, definitions of conceptions such as "gender stereotype", "gender examination" "temporary special measures" and etc.

Support of 141.89

30. The National Action Plan on the prevention of domestic violence in the Republic of Azerbaijan has been prepared with the support of the Population Fund of the United Nations.

Support of 141.90, 141.91 and 141.92

31. Increasing the efforts for providing access to inclusive and qualitative education for girls in rural areas has been supported and it is considered that this kind of measures can contribute to the reduction of cases of early marriages in the regions and to the rise in the results of girls' entrance to the higher education. In this direction, the Government has planned to reinforce the monitoring-control measures, especially in the regions, together with non-governmental organizations.

Support of 141.93 and 141.94

Support of 141.95

32. 2016 was announced as "The year of the Multiculturalism" in the country. The existence of various religious communities, national-ethnic groups and rich cultural diversity in our country is the basis of the initiative of "Baku Process" proposed by the Republic of Azerbaijan in 2008 in order to establish effective and efficient dialogue between cultures and civilizations and turned to the global movement.

Take note of 141.96

33. State bodies protect the rights of all citizens including the members of religious communities. State registration of the operation of religious communities in our country is implemented on the basis of requirements of the Law of the Republic of Azerbaijan on "Freedom of religious belief". There is no bureaucracy in the process of state registration of the religious agencies. 835 religious communities have been granted with state registration as of 07.03.2018. 804 of them are Islamic and 31 are non-Islamic (20 Christian, 8 Jewish, 2 Baha'i and 1 Krishna) communities. .

Support of 141.97

34. Expression of either "an illegal migrant" or "a migrant in an illegal situation" is not stipulated in the legislation.

Support 141.98 and 141.99

35. Discrimination based on any indicator or criteria is not tolerated in relation to the migrants and only the requirements of the legislation are considered while implementing the migration policy in the country.

36. The definition of "a refugee" is in fully conformity with the United Nations Convention of 1951 Relating to the Status of Refugees, and access to shelter system has been provided for persons who are seeking for asylum.

Support 141.100

37. IDP students are exempt from tuition fees at state higher educational institutions and specialized secondary schools. Based on the Decree of the President of the Republic of Azerbaijan on "Giving uniform monthly aid", monthly uniform aid is delivered to the every internally displayed child in order to improve their prosperity. At the same time, new school building with 96 seats has been constructed in the Cocuq Marjanli village of Jabrayil district that was liberated from the occupation of the Republic of Armenia.